

REMARKS

This application has been reviewed in light of the Office Action dated March 31, 2009. Claims 94, 100, 104, 108 and 109 are presented for examination, of which Claims 94, 100 and 104 are in independent form. All the claims have been amended to define still more clearly what Applicants regard as their invention. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 94, 108 and 109 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.¹ Applicants respectfully disagree. Claim 94 recites “said server comprising at least a processor and memory” and is clearly directed to an apparatus. Without conceding the validity of these rejections, however, Applicants have amended Claim 94 to help eliminate this issue. It is believed that the above-mentioned rejection has been obviated and its withdrawal is, therefore, respectfully requested.

Claims 94, 108 and 109 were also rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. As Applicants read this rejection, the Examiner finds the two calculator recitations “redundant and indefinite” because they say the recited calculator is for calculating, and finds the exception handler indefinite because it does *not* say that the exception handler handles exceptions. In any event, both views are believed to be without merit.

Applicants frankly do not understand the Office Action’s inconsistent grounds for this rejection. In addition, the Examiner has not shown that one having ordinary skill in the art will not be able to determine the scope of Claims 94, 108 and 109:

¹ The Office Action in para. 5 refers to Claim 31, but there is no Claim 31 in the present application. Therefore, it is assumed that the intended reference was to Claim 94.

“Examiner Note... Whenever possible, identify the particular term(s) or limitation(s) which render the claim(s) indefinite and state why such term or limitation renders the claim indefinite. If the scope of the claimed subject matter can be determined by one having ordinary skill in the art, a rejection using this form paragraph [¶7.34.01] would not be appropriate.” (MPEP 706.03(d))

As far as Applicants can see, the claim language “a calculator, arranged to calculate” is not at all vague or indefinite, as calculation is exactly what a calculator is supposed to do. Moreover, inclusion of “for calculating” in these two recitations serves a purpose, as these recitations state what it is that is being calculated by the recited calculators; in other words, if the phrase “for calculating” were deleted from these recitations, the result would not be proper English.

Applicants also believe that the claim language “an exception handler, arranged to send an inquiry...” clearly describes what the exception handler is supposed to do, as “the collecting rate [being] greater than 100%” is clearly an exception, and “to send an inquiry... , and suspend operation... or adjust the collecting rate” is clearly exception handling. Moreover, Applicants are unaware of any requirement on the “consistency” of claim language, which may be used for rejecting under Section 112, second paragraph. Withdrawal of the above-mentioned Section 112 rejections is, therefore, respectfully requested.

Claims 94, 100, 104, 108 and 109 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) in view of U.S. Patent 6,067,525 (Johnson et al.) and U.S. Patent 6,269,344 (Junger).²

Applicants submit that the independent claims, together with their dependent claims, are patentably distinct from the cited prior art for at least the following reasons.

² The Office Action in para. 11, cites a reference by Rogers et al. Applicants are unable to get the exact citation of this reference. Judging from the rest of the Office Action, Applicants believe that the Office Action has intended to cite a reference by Junger instead. As there are two references by Junger on the Notice of References Cited, one being a continuation of the other, Applicants’ following discussion refers for convenience to the continuation. If the rejection as understood by Applicants is not what the Examiner intended, and if the Examiner maintains the (actual) rejection, then of course the next Office Action must be non-final.

The nature of the present invention and *AAPA* has been adequately discussed in the Amendment of December 23, 2008, and it is not believed necessary to repeat that discussion in full.

Applicants note, however, that according to aspects of the present invention, a collecting system has the capability of keeping track of various collection statistics and taking measures to improve various aspects of the collection as necessary. For example, the collecting system monitors an average collecting rate for a particular kind of office supply against a predetermined threshold (para. [0125]). When the average collecting rate falls below the predetermined threshold, the collecting system initiates some promotion activities in order to raise the average collecting rate for the particular kind of office supply (para. [0126]).

Claim 94 recites, among other features, “a rate analyzer, arranged to calculate an average collecting rate and compare it with a predetermined threshold; a counter-measurer, arranged to improve the average collecting rate when it has fallen below the predetermined threshold.”

The features recited above are not believed to be disclosed or suggested in *AAPA*, *Johnson*, and *Junger*, considered separately or in any permissible combination. As Applicants understand, *AAPA* clearly does not disclose this feature, *Johnson* does not concern the collection of goods, and *Junger* does not concern the improvement of collection rates.

Finally, the Office Action states that the language “*order* data of a *new consumable* [emphasis added]” of Claim 94 is nonfunctional descriptive material. Applicants respectfully disagree.

“Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of

"data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. *Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. [emphasis added]*" (MPEP 2106.01)

The claim language cited above modifies "data" rather than the subject matter of the claim: server apparatus. It indicates the nature of the data accepted from a user by the server apparatus of the claim rather than causing the server apparatus to be claimed as (functional or nonfunctional) descriptive material as defined above.

Accordingly, for at least the reasons noted above, Claim 94 is believed patentable over *AAPA*, *Johnson*, and *Junger*, considered separately or in any permissible combination.

Independent Claims 100 and 104 recite features similar to those discussed above with respect to Claim 94 and, therefore, are also believed to be patentable over *AAPA*, *Johnson*, and *Junger* for the reasons discussed above.

A review of the other art of record has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims. Therefore, the independent claims are believed to be allowable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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